



**STORY COUNTY
PLANNING AND DEVELOPMENT
STORY COUNTY ADMINISTRATION
900 6TH STREET
NEVADA, IOWA 50201-2087**

"Commitment, Vision, Balance"

515-382-7245

**MINUTES
STORY COUNTY
BOARD OF ADJUSTMENT**

AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING WWW.STORYCOUNTYIOWA.GOV

DATE: July 15, 2020	Steve McGill, Chair	2022
	Randy Brekke, Vice Chair	2020
	Matthew Neubauer	2021

CALL TO ORDER: 4:02 PM *Absent
PLACE: Public Meeting Room
Administration Building

Special Note: Due to recommendations to social distance in order to help slow the spread of the COVID-19 virus, public access to the meeting was provided via conference call to listen and participate in the meeting.

PUBLIC PRESENT BY CONFERENCE CALL: Chaden Halfhill, Andrew Friend

STAFF PRESENT: Jerry Moore, Planning and Development Director (Phone); Amelia Schoeneman (Phone); Marcus Amman (Phone); Emily Rizvic (Phone); Stephanie Jones, Recording Secretary

ROLL CALL: McGill, Brekke, Neubauer (Board was present via conference call in response to COVID-19.)

ABSENT: None

APPROVAL OF AGENDA (MCU)

APPROVAL OF MINUTES

Motion by Brekke, Second by Neubauer to approve the June 17, 2020, minutes. (MCU)
Voting Aye: Brekke, Neubauer, McGill
Voting Nay: None
Vote: (3-0)

APPROVAL OF WRITTEN FINDINGS OF FACT From June 17, 2020 Meeting

Motion by Neubauer, Second by Brekke (MCU)
Written Findings of Fact CUP03-20, 04-20, 05-20 StoryComm
Voting Aye: Neubauer, Brekke, McGill
Voting Nay: None
Vote: (3-0)

HEARINGS:

VAR02-20 Balbiani Variance Request

Emily Rizvic provided the background information summary. The request is for a variance to the minimum front setback for an attached garage at 27922 Timber Road. The zoning of the subject property is R-1 Transitional Residential, which establishes a minimum front setback of 40 feet. The variance request for an attached garage that is proposed to encroach on the front setback, requiring a variance of 7 feet. The attached garage is proposed to have a setback of 33 feet, be 39-feet-by-26 feet, and be located on the west side of the existing dwelling. The purpose of the variance is to preserve two trees on the site. A proposed larger garage that encroaches on the setback would allow for the overhead garage door and driveway to be located further west, away from the trees. Amelia Schoeneman summarized the legal principals necessary to granting a variance. There is an existing neighboring dwelling which applied for a similar setback variance request for a proposed detached garage. Staff and Board of Adjustment found in the past request that trees were not a unique circumstance. Planning and Development staff recommend denial of the variance due to all legal principles necessary for the granting of a variance are not met.

Brekke asked when the house was built and if there were restrictions at that time. Schoeneman stated the house was built in 1960 and current setbacks are met, it's the 39' addition that would not meet setbacks, but that a 32' addition would meet setbacks. Brekke stated that it appeared the proposed variance would be 6' on south end of the addition and 7' on north due to the angle of the property line. Schoeneman stated that the applicant located the property pins and was able to measure on the site rather than using an aerial image. Brekke asked if a variance could be approved for a different amount. Schoeneman stated that would be possible, but the findings would need amended to state why that would meet the findings. Schoeneman stated that by removing the trees the setbacks could be met. McGill asked for clarification on if building a smaller garage, the setbacks would be met. Schoeneman stated that was correct and a plan showing a smaller attached garage was submitted by the applicant that does meet setbacks.

Chaden Halfhill spoke representing the applicant and stated that he is the designer and contractor. Halfhill stated that the existing detached garage is in the north quadrant and using it as a parking garage is not an option because of the septic lateral fields. Halfhill stated that an attempt was made to keep the west-facing door on the addition, but maneuverability was not possible, so the door was moved to the south side of the proposed attached garage. Halfhill said the property owner adjacent to the property has verbally stated they are ok with the proposed request. Halfhill stated that the applicant does not want to damage the tree because it offers a great deal of shade reducing operating costs. Halfhill stated that he liked the suggestion from Brekke to allow a 2' or 3' variance which would be doable for the applicant.

Neubauer asked for clarification of the concept plan for 32' addition with door to the west and if the navigation of the driveway would be an issue. A new culvert was initially considered, but because of a curve on Timber road they cannot have an access point there. Entering the original driveway with a turn to come into the proposed garage was too difficult to maneuver. That is the reason the door was changed to the south side of the proposed attached garage which then made the existing house and trees an issue for maneuverability.

McGill asked if the old garage area would be converted into living space. Halfhill stated that is correct.

Brekke asked if the trees in the drawing are fairly close to scale on the site plan. Halfhill stated

that one tree is larger and he may have reversed which tree is which in the drawing.

McGill asked if this item would need to be tabled or if it could be addressed tonight if an option was given that Halfhill agreed to. Jerry Moore stated that the legal principals would need to be met if a deviation would be made from what staff recommended. Moore asked how it would be known that the trees with their root systems would not be affected. Halfhill stated that if there are roots that go across the footing, it would need to be protected during construction so that the root ball doesn't get compacted with construction traffic. The distance is about 4' from the tree to where the footing would be located and that the roots would be cut cleanly which has been done successfully in the past. Schoeneman stated that the location of the southern footing would still be the same distance from the tree if a variance is granted.

McGill asked if it would be possible to move the 32' concept plan further north. Halfhill stated there is a water line in the area, but it might be doable. McGill stated he is concerned about the legal principals, although there are options if it were to be brought back and agrees that trees do add value to properties.

Moore asked Halfhill to comment on the tree that had already been removed. Halfhill stated that a tree was previously removed that was in the direct way of where the garage was planned to be built, and also that it was dying, but he does not know what was wrong with the tree.

Halfhill asked if the orientation of the house not facing the road provide a special circumstance of the rules that are meant for a front facing view. Schoeneman stated the orientation was looked at and it was not found to impact which property line is considered the front property line, but rather the access location.

Schoeneman stated that if it is tabled to look into a lesser variance request that she does not feel it would alter staff recommendation and denial would still be recommended.

Brekke stated he is not interested in pushing this through, and asked if the Board had amended the findings previously. He would like to keep the trees and changing the amount of the variance request. Schoeneman stated that the board has changed the findings before and that the Board would need to go through and change the findings for each legal principle staff found was not met. Much discussion took place among the Board on amending the findings.

On the first finding that the land in question cannot yield a reasonable return if used only for a purpose allowed in that zone, the Board found keeping the cost of removing the trees and cost of replacing the trees did not allow for reasonable return. Further, trees add value to the property and their removal would impact the property value.

On the second finding that the plight of the owner is due to unique circumstances and not to general conditions in the neighborhood which may reflect the unreasonableness of the Ordinance itself, the Board agreed with staff's findings on the unique circumstances requiring the garage to be located on the west side of the dwelling and have a south-facing overhead door. They also found that the age of the house was a unique circumstance when considering the general condition of the neighborhood.

On the fourth finding that granting the variance will not be contrary to the public interest, the Board found that no members of the public provided comments in opposition and the applicant had stated that the closest neighbor was in support.

On the fifth finding that the spirit and intent of the Story County Development Plan and Story County Land Development Regulations are protected, the Board found that a reduced variance of three feet would not be noticeable and impact the intent of the Story County Development Plan and Story County Land Development Regulations.

Motion:

The Story County Board of Adjustment approves the Balbiani variance request with

conditions, as modified by the Board of Adjustment and put forth in case VAR02-20 for a variance of 3 feet from the required 40-foot front setback for the construction of a 35-foot-by-26-foot attached garage with a setback of 37 feet from the front property line, with the following condition:

1. The builder will confirm the setback of the proposed attached garage is 37-feet.

Motion: Brekke

Second: Neubauer

Ayes: Brekke, Neubauer, McGill

Nays: None

Not Voting: None

Absent: None

Vote: (3-0)

VAR01-20 Friend Variance Request

Marcus Amman presented the Staff Report and stated that the request is for a variance to the minimum front set back of a nonconforming dwelling located in the A-1 District, which establishes a minimum front set back of 50 feet. The variance request is to permit the construction of an attached garage to the single family dwelling that would encroach on the front setback requiring a variance of 20 feet from 50 feet to 30 feet. The property is located in Section 2 of Franklin Township parcel number 05-02-200-230 Amman stated that the Planning and Development staff recommend approval of the variance due to all legal principles being met.

Andrew Friend stated that originally he did not think it would be possible for a garage until he learned about the possibility of changing the type of septic system. The trees are not in good condition so the decision was made to attempt approval for an attached garage.

Motion:

The Story County Board of Adjustment approves the Friend Setback variance request, as requested by the applicant and put forth in case VAR01-20, for a variance to allow the proposed attached garage to have a front setback of 30 feet in the A-1 District.

Motion: Neubauer

Second: Brekke

Ayes: Neubauer, Brekke, McGill

Nays: None

Not Voting: None

Absent: None

Vote: (3-0)

BOARD/STAFF COMMENTS:

Staff: Moore stated that a notice was posted for the Board of Adjustment openings, applications have been received and interviews will be taking place soon. Moore said Citizenserve is tentatively set to go live August 3, 2020, with zoning permit applications, and updated the Board of Adjustment on the Perkins Conditional Use Permits regarding preparing Written Findings of Facts for those cases. The August meeting is anticipated to take place via Zoom, and lastly zoning permits numbers for the second quarter of this year were increased compared to the previous three years second quarter.

Board: Neubauer asked what the majority of permits being issued are for. Moore stated there has been a variety, including single family dwellings, accessory buildings, decks, additions, mobile homes, porches, and solar arrays.

ADJOURNMENT: 6:00PM

Approval of Minutes

Title and Date